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**OFFICE OF PETITIONS
ON PETITION**

In re Patent No. 6,658,314
Issue Date: December 2, 2003
Application No. 09/412,618
Filed: April 19, 2000
Attorney Docket Number: P-2070-US

This is a decision on the petition filed March 22, 2012 under 37 CFR 1.377.

The petition is **DISMISSED** as involving moot issues.

The patent issued December 2, 2003. Accordingly, the second maintenance fee due could have been paid during the period from December 2, 2010 through June 2, 2011 or with a surcharge during the period from June 3, 2011 through December 2, 2011.

Petitioner argues that on May 27, 2011, the 8th year maintenance fee was paid in the amount of \$1,240 as a small entity. However, on January 23, 2012, a request under 37 CFR 1.28 for acceptance of a fee deficiency submission in the amount of \$1610 and loss of small entity status was filed. Petitioner argues that in spite of the timely payment of the maintenance fee and the payment of the deficiency, the Status field in the maintenance fee-Patent Bibliographic Data window in PAIR related to the above-identified Patent is "Expired".

Petitioner has adequately demonstrated that the assertion of small entity status was on file and current at the time the 8th year maintenance fee was due and when it was paid. Petitioner has also adequately demonstrated that the patentee was no longer entitled to claim small entity status and thus filed a request under 37 CFR 1.28 for acceptance of a fee deficiency submission and loss of small entity status, which was granted in a decision mailed February 23, 2012.

In view of the above, the maintenance fee was timely paid prior to expiration of the patent, no petition is necessary. The finance records have been updated to reflect the change in entity status and the 8th year maintenance fee, with the change in entity status, adjusted to the payment in the amount of \$2850, the rate for a large entity maintenance fee.

Additionally, no petition fee is due for the instant petition. Petitioner's deposit account No. 50-3355 has been credited in the amount of \$200.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions